

1 CHOI & ITO
Attorneys at Law

2 CHUCK C. CHOI
3 ALLISON A. ITO
4 700 Bishop Street, Suite 1107
Honolulu, Hawaii 96813
5 Telephone: (808) 533-1877
Fax: (808) 566-6900
6 Email: cchoi@hibklaw.com; aito@hibklaw.com

7 MCDONALD LAW OFFICE

8 CHARLES H. MCDONALD II (F0494)
2nd Floor ICC, Room 203
9 Gualo Rai, Saipan, MP 96950
Telephone: (866) 967-7567
10 E-Mail: charles@mcdonald.law

11 Attorneys for Debtor and Debtor-in-Possession

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF THE NORTHERN MARIANA ISLANDS
14 BANKRUPTCY DIVISION

15 In re

16 IMPERIAL PACIFIC
INTERNATIONAL (CNMI), LLC,

17 Debtor and
18 Debtor-in-possession.

Case No. 24-00002

(Chapter 11)

DEBTOR'S SUPPLEMENTAL REPLY TO
OPPOSITION BY THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS
TO DEBTOR'S MOTION TO APPROVE BID
PROCEDURES FOR SALE OF
SUBSTANTIALLY ALL OF THE DEBTOR'S
ASSETS AND RELATED RELIEF;
DECLARATION OF HAROLD J. BORDWIN

Hearing

Date: September 19, 2024

Time: 8:30 a.m.

Judge: Hon. Ramona V. Manglona

[Relates to ECF 182, 219]

1 **DEBTOR’S SUPPLEMENTAL REPLY TO OPPOSITION BY THE OFFICIAL**
 2 **COMMITTEE OF UNSECURED CREDITORS TO MOTION TO APPROVE BID**
 3 **PROCEDURES FOR SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S**
 4 **ASSETS AND RELATED RELIEF; DECLARATION OF HAROLD J. BORDWIN**

5 IMPERIAL PACIFIC INTERNATIONAL (CNMI), LLC, debtor and debtor-in-
 6 possession herein (the “Debtor”), by and through its undersigned counsel, hereby files its
 7 Supplemental Reply to the *Opposition* filed by the Official Committee of Unsecured
 8 Creditors (the “Committee”), on September 5, 2024, to the Debtor’s *Motion to Approve*
 9 *Bid Procedures for Sale of Substantially All of the Debtor’s Assets and Related Relief*
 10 (the “Bid Procedures Motion”).¹

11 Although the Committee had substantial input in the Bid Procedures Motion², it
 12 now opposes it and claims the Debtor has failed to engage in a “strategic marketing
 13 process to bring it to an operating casino and hotel” *See* Opposition at 2.
 14 Specifically, the Committee alleges that as there has been no marketing of the assets
 15 being sold, the \$10 million stalking horse bid is inadequate and will “chill” the bidding;
 16 (2) the procedures unfairly favor an alleged insider bidder (Mr. Sit) by allowing a credit
 17 bid despite his lack of secured status; (3) since the Commonwealth Casino Commission
 18 (the “CCC”) has indicated that it is willing to “work with disinterested bidders for
 19 granting a casino license” the Casino License should be marketed for sale; (4) “the
 20 Committee has identified an investment banker to facilitate a **going-concern sale** of the
 21 Debtor’s assets.” *Id.* at 4 (emphasis added).
 22
 23
 24

25 ¹ Capitalized terms not herein defined shall have the meaning set forth in the Bid
 26 Procedures Motion.

27 ² The Committee’s input is evidenced by the requirement that “the Debtor and the
 28 Committee shall jointly (i) determine the winning bidder” *See* Bid Procedures
 Motion at pdf 9.

1 A. NO “GOING-CONCERN” VALUE EXISTS, BUT THE \$10 MILLION BID
 2 WILL BE MARKETED TO CASINO AND HOTEL OPERATORS, AMONG
 3 OTHERS.

4 The Debtor ceased business operations in March, 2020, four and half years ago.
 5 The hotel roof is not closed; it has been open to the elements since 2021. It is estimated
 6 that approximately \$100 million must be spent before the hotel can be opened. Given
 7 these facts, it is fantasy to suggest the Debtor is a “going concern.”

8 As for the Casino License, it cannot be readily assumed and assigned. The CCC
 9 suspended the Casino License for nonpayment of the Casino Regulatory Fee in August,
 10 2021. The CCC asserts that the Debtor owes Casino Regulatory Fees totaling
 11 approximately \$12.6 million as of the Petition Date. Similarly, the CNMI asserts that the
 12 Debtor owes Annual License Fees totaling approximately \$60 million as of the Petition
 13 Date. The holder of the Casino License must also pay an additional \$18.65 million for
 14 the 2024 annual license and regulatory fees. For these reasons, the Stalking Horse
 15 Purchaser passed on the Casino License.
 16

17 Nevertheless, as set forth in the attached Declaration of Harold J. Bordwin
 18 (“Bordwin Dec.”), Co-President of Keen-Summit Capital Partners LLC (“Keen”),³ if
 19 employed, Keen intends to market the assets to “owners, operators and investors in the
 20 casino, hospitality and real estate industries. **casino operators** as well as hotel operators.”
 21 See Bordwin Dec. at ¶ 10 (emphasis added).
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 23
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27 ³ This Court has set a hearing date of September 26, 2024, on the Debtor’s *Application to*
 28 *Employ Keen-Summit Capital Partners LLC as Real Estate Brokers to Debtor* (“Keen
 Employment Application”). See ECF 228.

1 B. THE ESTATE CANNOT AFFORD AN INVESTMENT BANKER

2 The Committee claims that the Debtor made a “commitment to the Committee to
3 engage an investment banker to properly market the assets” Opposition at 3.

4 This is not true. As noted in its *Omnibus Reply*, filed herein as ECF 217, counsel
5 for the Debtor and Committee initially agreed to jointly employ Keen to market the
6 Stalking Horse offer. However, in early August, Committee counsel proposed having an
7 investment banker market the assets for 45 days followed by 45 days of marketing by
8 Keen. The Debtor did not agree to the proposal due to the limits of the DIP financing.⁴

9 C. THE BID IS NEITHER PREMATURE NOR TOO LOW

10 The Committee argues that the Stalking Horse bid is “artificially low” and will
11 “chill” the bidding. However, as Mr. Bordwin states in his declaration, in his opinion,
12 “going to market with a stalking horse in hand is a positive, not a negative: it encourages
13 rather than discourages third party bidders.” See Bordwin Dec. at ¶ 8. Keen also
14 “anticipates offering for sale the casino license and anticipates communicating with the
15 Commonwealth Casino Commission (the “CCC”) about how Keen and the CCC can
16 work together to encourage buyers.” *Id.* at ¶ 9.

17 The Debtor proposes to employ Keen precisely to market the assets to potential
18 bidders, including distress investors. Keen agrees that

19 it is always better to have a stalking horse sooner rather than later.
20 Following the maxim that *a bird in hand is worth two in the bush*, I would
21 not discourage a debtor from signing up a reasonable stalking horse offer
22 prior to marketing, for risk that the prospective stalking horse would move
23 on. In my experience, it is best to lock up a reasonable stalking horse

24 ⁴ Any investment banker would insist on a substantial guaranteed payment. The Debtor
25 concluded that the estate could not afford two sets of professionals to market the assets.
26

offer as soon as possible.

Id. at ¶ 6 (emphasis supplied).

Finally, the Debtor believes that the \$10 million bid for a half-built hotel and related personal property assets is in fact reasonable. On June 30, 2024, one of the best hotels on the island, the Hyatt Regency Saipan Hotel closed permanently, after 43 years of operations. No doubt the closure was due to continuing losses. The Debtor is informed that the owner surrendered the leasehold interest a few months after negotiating for a new 40-year public land lease.

D. THE STALKING HORSE BIDDER HAS AGREED TO CONCESSIONS.

The Committee and Joshua Gray both oppose allowing the Stalking Horse Bidder to “credit bid” his DIP loan toward the purchase price even though the DIP loan comes due December 31, 2024. *See* ECF 173 at 4. The Debtor has requested and Mr. Sit has agreed that there will be no “credit” component to his bid.

Most importantly, at the request of Keen, Mr. Sit has agreed that the outside date for closing on his offer shall be extended from December 31, 2024 to February 28, 2025.

E. CONCLUSION

The Debtor respectfully requests that the Bid Procedures Motion, as modified herein, be granted.

DATED: Honolulu, Hawaii, September 11, 2024.

/s/ Chuck C. Choi
CHUCK C. CHOI
ALLISON A. ITO
CHARLES H. McDONALD II (F0494)
Attorneys for Debtor and
Debtor-in-Possession